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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,095	10/10/2003	Bryce C. Waggoner	STD1200PA/41213.551	5499
23368 7590 02/27/2007 DINSMORE & SHOHL LLP ONE DAYTON CENTRE, ONE SOUTH MAIN STREET SUITE 1300 DAYTON, OH 45402-2023			EXAMINER NORDMEYER, PATRICIA L	
			ART UNIT 1772	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/27/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/685,095	<b>Applicant(s)</b> WAGGONER ET AL.	
	<b>Examiner</b> Patricia L. Nordmeyer	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Withdrawn Rejections***

1. The 35 U.S.C. 103 rejection of claims 1 – 8, 10 – 20 and 22 over Huddleston et al. (USPN 5,653,472) in view of Haas (USPN 5,785,354) and Attia et al. (USPN 6,016,618) in the office action dated September 22, 2006 is withdrawn due Applicant's arguments in the response dated January 9, 2007.

2. The 35 U.S.C. 103 rejection of claims 9 and 21 over Huddleston et al. (USPN 5,653,472) in view of Haas (USPN 5,785,354), Attia et al. (USPN 6,016,618) and Charles et al. (USPN 4,318,234) in the office action dated September 22, 2006 is withdrawn due Applicant's arguments in the response dated January 9, 2007.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 8, 10 – 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huddleston et al. (USPN 5,653,472) in view of Haas (USPN 5,785,354) and Wiebe (USPN Re. 30,786).

Huddleston et al. disclose a patient wristband form (Figure 1, #10) comprising a polyester

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ply layer having an upper surface and a lower surface made of film material (Column 5, lines 36 – 38; Column 6, lines 6 – 7), wherein the polyester film is a white polyester film (Column 3, lines 56 – 58), a release ply having an upper surface and lower surface (Column 5, lines 44 – 48) wherein said release ply having a release coating on said upper surface of said release ply (Column 5, lines 45 – 46) and wherein said transparent ply is removably mounted on said upper surface of said release ply by said pressure sensitive coating (Column 5, lines 46 – 48), a die cut in said transparent ply defining an elongated wristband (Column 5, lines 39 – 41), said label being sized to cover at least a part of said central portion of said elongated wristband so as to cover indicia printed on said wristband (Figure 1, #14) as in claims 1, 11 and 13. With regard to claims 2 and 14, the release ply is substantially larger than said transparent ply (Figure 2, #24) and further comprises a paper ply having an upper surface and a lower surface (Figure 1, #18; Column 3, lines 56 – 57) wherein said lower surface of said paper ply has a pressure sensitive adhesive coating which is used to mount the paper ply on the release ply (Figure 2, #28)). The form contains one or more labels defined by die cuts in the paper ply (Figure 1, #14), the transparent ply is die cut to define one or more additional labels (Column 4, lines 47 – 50) and a plurality of colored labels that may be affixed to said elongated wristband (Figure 3, #16; Column 3, lines 46 – 47) as in claims 3, 4, 6, 15, 16 and 18. As in claims 5 and 17, the pressure sensitive adhesive coating on said lower surface of said transparent ply is pattern coated such that are beneath said elongated wristband central portion is free of adhesive (Column 4, lines 4 – 7). With regard to claims 7 and 19, the transparent ply and paper ply are directly adjacent each other to provide a patient wristband of substantially uniform thickness (Figures 1 and 2, #10), whereby said form may advantageously be printed by means of a laser printer or an ink jet

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printer in center portion of the wristband (Column 4, lines 62 – 66; Figure 1, #40). However, Huddleston et al. fail to disclose a transparent ply having an upper and lower surface, a die cut in said transparent ply defining an overlamine label, said overlamine label being separate from said elongated wristband and sized to cover at least a part of the central portion of the wristband so as to cover indicia printed on said coating, an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband, an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink, the transparent ply comprising a ply of substantially clear polyester film material a perforation line extending there across between said top ply and said paper ply.

Haas teaches an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband made of a white adhesive material (Column 9, lines 10 – 12; Column 10, lines 1 - 5) and the transparent ply comprising a ply of substantially clear polyester film material (Column 9, lines 12 – 14; Column 10, lines 11 – 14) for the purpose of having a surface that is capable of absorbing ink to form a display (Column 8, lines 44 – 50).

Weibe teaches a transparent ply having an upper and lower surface (Column 4, lines 43 – 45), a die cut in said transparent ply defining an overlamine label (Figure 4, #25), said overlamine label being separate from said elongated wristband and sized to cover at least a part of the central portion of the wristband so as to cover indicia printed on said coating as part of a

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wristband (Column 4, lines 44 – 50) for the purpose of having a laminated article that protects the printed material from unauthorized tampering (Column 4, lines 60 – 67).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink and the transparent ply comprising a ply of substantially clear polyester film material in Huddleston et al. in order to have a surface that is capable of absorbing ink to form a display as taught by Haas and to have a laminated article that protects the printed material from unauthorized tampering.

5. Claims 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huddleston et al. (USPN 5,653,472) in view of Haas (USPN 5,785,354) and Wiebe (USPN Re. 30,786) as applied to claims 1 – 8, 10 – 20 and 22 above, and further in view of Charles et al. (USPN 4,318,234).

Huddleston et al., as modified with Haas and Wiebe, disclose a patient wristband form comprising a transparent ply layer having an upper surface and a lower surface made of film material, a release ply having an upper surface and lower surface wherein said release ply having a release coating on said upper surface of said release ply and wherein said transparent ply is removably mounted on said upper surface of said release ply by said pressure sensitive coating, a die cut in said transparent ply defining an elongated wristband, an opaque coating on

said upper surface of said transparent ply in a central portion of said elongated wristband and a die cut in said transparent ply defining an overlamine label, said label being sized to cover at least a part of said central portion of said elongated wristband so as to cover indicia printed on said opaque coating. However, the modified Huddleston et al. fail to disclose said transparent ply further defines one or more circular cut holes in said elongated wristband adjacent each end thereof, whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the wristband.

Charles et al. disclose a wristband (Column 1, lines 12 – 17) with a transparent ply (Column 9, lines 18 – 20) that further defines one or more circular cut holes (Figure 1a, #18 and 16) in said elongated wristband (Figure 1a, #4) adjacent each end thereof (Figure 1a, #6 and 8; Column 9, lines 23 – 26), whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the wristband (Column 9, lines 26 – 29; Figure 6a) for the purpose of having an identification that is easy to use, easy to apply while being tamper-resistant (Column 1, lines 6 – 11).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided with a transparent ply that further defines one or more circular cut holes in said elongated wristband adjacent each end thereof, whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the wristband in the modified Huddleston et al. in order to have an identification that is easy to use, easy to apply while being tamper-resistant as taught by Charles et al.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1 – 22 have been considered but are moot in view of the new ground(s) of rejection. However, since the same prior art is being used in the above rejections, the arguments will be responded to below.

With regard to Applicant's argument that there is no die cut that defines an overlamine label that is separate from the wristband, please see the newly applied rejection above with regard to the Weibe reference.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Patricia L. Nordmeyer  
Examiner  
Art Unit 1772

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